

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3385 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

SHANTILAL BHAGVANDAS KHANT

Appearance:

MR KM PARIKH for Petitioner
MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 22/06/2000

ORAL JUDGEMENT

#. Heard Mr. Parikh learned counsel for the Gujarat State Road Transport Corporation(hereinafter referred to as the Corporation) and Mr. G.K.Rathod learned counsel for the respondent. The respondent Shantilal Bhagwandas

Khant was working as Art "C" Mechanic in Bodeli Depot. at Godhra Division of the petitioner Corporation . On 5.6.1988 the respondent drove bus No. GRR 8581 even though he did not have any valid driving licence. For committing such misconduct the petitioner corporation started disciplinary proceedings against the respondent and in the proceedings the respondent admitted the misconduct committed by him. However, in the disciplinary proceedings, he was found guilty and the Disciplinary Authority after considering all the facts and circumstances of the case dismissed the respondent from service by order dated 13.9.1989. The respondent filed an appeal against the said order of the dismissal which has been dismissed by the Disciplinary Authority by order dated 6.1.1990. Thereafter the respondent raised an industrial dispute before the Assistant Commissioner of Labour, Baroda and the dispute was referred to the Labour Court, Baroda under section 10(1) of the Industrial Disputes Act. The Labour Court, after hearing the parties and after taking evidence quashed the order of dismissal and passed an order for reinstatement of the respondent on his original post with 50 percent back wages. Having felt aggrieved by the aforesaid order of the Labour Court, Baroda, the petitioner Corporation filed the present petition for quashing the order of the Labour Court, Baroda. The learned counsel for the petitioner submitted that the Labour Court did not find any illegality or error in the disciplinary proceedings. However, the Labour Court has taken a lenient view having regard to the offence of misconduct committed by the respondent and taking such a lenient view the Labour Court has passed the order for reinstatement of the respondent on his original post with 50 percent back wages. Learned counsel for the petitioner further submitted that the Labour Court should not have reinstated the respondent having regard to the fact that this will encourage the respondent to drive the vehicle without any licence and since he has committed serious misconduct, the order of the dismissal should not have been interfered with by the Labour Court. The learned counsel accordingly submitted that since there is no illegality in the proceedings before the disciplinary authority, the Labour Court should not have interfered with the order of dismissal passed by the Disciplinary Authority.

#. The learned counsel for the respondent submitted that the respondent is an Art "C" Mechanic and he was repairing the vehicles in the Bodeli Depot of the petitioner corporation and he is quite aware about the driving of the motor vehicle even though he does not have

a valid driving licence. But since he has knowledge about driving of motor vehicle, it cannot be said that he has done any serious offence for which he should be dismissed from service. Learned counsel for the petitioner submitted that the Labour Court has correctly taken a lenient view having regard to the nature of the conduct of the respondent. It is true that the offence committed by the respondent does not deserve order of dismissal but having regard to the fact that the respondent has driven the motor vehicle without having a valid licence, this would indeed create serious problem of endangering human life. However, no such incident has taken place but if the petitioner is not sufficiently punished then in future he may commit such offence which may endanger human life and property. Therefore, I am of the view that the Labour Court should not have taken such a lenient view of reinstating the respondent in service with 50 percent back wages.

#. Having regard to the nature of offence committed by the respondent, I am of the view that a more stringent punishment should have been awarded to the respondent. I am of the view that withholding of two increments with cumulative effect and payment of 35 percent of back wages and reinstating the respondent in service will meet the ends of justice. Accordingly the judgment and award of the Labour Court is modified to the extent that instead of 50 percent back wages the respondent will be entitled to 35 percent back wages and two increments of the respondent will be withheld with cumulative effect. It is submitted by the learned counsel for the petitioner that the respondent has already been reinstated in service. Therefore, no direction in this regard is necessary. With the aforesaid modification and directions the petition is partly allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

(P.K.Sarkar.J)

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